

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address JEFFREY KRIEGER (SBN 156535) JKrieger@GreenbergGlusker.com KEITH PATRICK BANNER (SBN 259502) KBanner@GreenbergGlusker.com GREENBERG GLUSKER FIELDS CLAMAN & MACHTINGER LLP 1900 Avenue of the Stars, 21st Floor Los Angeles, California 90067-4590 Telephone: 310.553.3610 Fax: 310.553.0687 <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Diane C. Weil, Chapter 7 Trustee	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - SAN FERNANDO VALLEY	
In re: DEAN ALBERT MAURY CAZARES, an individual, Debtor(s).	CASE NO.: 1:16-bk-10543-VK CHAPTER: 7 NOTICE OF SALE OF ESTATE PROPERTY
Sale Date: 11/21/2019	Time: 2:00 p.m.
Location: Courtroom 301, United States Bankruptcy Court, 21041 Burbank Blvd., Woodland Hills, CA 91367	

Type of Sale: ☐ Public ☒ Private

Last date to file objections: November 7, 2019

Description of property to be sold:

Pre-petition Composition/Royalty Rights of the Debtor. See **Exhibit A**.

Terms and conditions of sale:

Pursuant to the terms of the Asset Purchase Agreement accompanying the sale motion, subject to overbid.

Proposed sale price: \$90,000.00

Overbid procedure (if any):

See attached **Exhibit B**.

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Date: November 21, 2019
Time: 2:00 p.m.
Place: Courtroom 301
United States Bankruptcy Court
21041 Burbank Blvd.
Woodland Hills, CA 91367

Contact person for potential bidders (include name, address, telephone, fax and/or email address):

Jeffrey Krieger
JKrieger@GreenbergGlusker.com
GREENBERG GLUSKER FIELDS CLAMAN & MACHTINGER LLP
1900 Avenue of the Stars, Ste. 2100
Los Angeles, CA 90067
Telephone: 310 553-3610
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Attorneys for Diane C. Weil, Chapter 7 Trustee

Date: 10/24/2019

EXHIBIT A
Property to be Sold

The Debtor is a musician, songwriter, recording artist and performer. He was a member of long-standing rock band known as “Fear Factory” and other lesser-known bands, including “Divine Heresy”, “Asesino” and “Brujeria”. As such, prior to the Petition Date, the Debtor held an interest in an extensive music “catalog”, consisting of certain musical composition and sound recordings he composed or jointly composed and the accompanying rights to publishing and performance royalties (collectively, the “Composition/Royalty Rights”), which are facilitated and distributed by Warner Music Group, Universal Music Group, the American Society of Composers, Authors and Publishers, and Sound Exchange. The Composition/Royalty Rights are the assets to be sold under the sale motion.

EXHIBIT B

Bid Procedures

- a. Break-up Fee. In the event the Bankruptcy Estate sells, conveys, assigns, and/or hypothecates the Composition/Royalty Rights to an individual or entity other than Buyer, Buyer shall be entitled to return of the Purchase Deposit plus a break-up fee in the amount of five thousand dollars (\$5,000.00) (the “Break-up Fee”). The Break-up Fee shall be paid no later than ten (10) business days following the consummation of a sale, conveyance, assignment and/or hypothecation of the Composition/Royalty Rights to a third party. The Break-up Fee shall be paid by check made payable to “Music Royalty Consulting, Inc.” and delivered via U.S. Mail, postage prepaid, to the following address: Music Royalty Consulting, Inc., P.O. Box 7576, Beverly Hills, CA 90212.
- b. Overbid Procedures. By and through the motion seeking approval of this Agreement¹ and the Sale, the Trustee shall propose and seek approval of the following procedures for the Overbid Auction:
 - i. Notice of Intent to Bid/Deposit. Any party other than Buyer interested in bidding on the Composition/Royalty Rights during the Overbid Auction shall submit each of the following to the Trustee’s counsel no less than two (2) business days prior to the date first scheduled for the Sale Hearing: (1) a written notice of intent to bid; (2) an executed affirmation that they agree to be bound by the terms of this Agreement; and (3) a Cashiers’ Check payable to Diane C. Weil, Chapter 7 Trustee in the amount of fifteen thousand dollars (\$15,000.00) (collectively, the “Overbid Deposits” and each, an “Overbid Deposit”). As to Buyer, the Purchase Deposit shall be deemed an Overbid Deposit for the purposes of this Agreement.
 - ii. Proof of Ability to Close. On the date of the Overbid Auction, any bidder (other than Buyer) who has complied with the procedures in section (b)(i) of this Paragraph 5, and who is interested in presenting one or more overbid(s) at the Overbid Auction shall be required to present to the Trustee evidence of their ability to close the transaction, in a form satisfactory to the Trustee in her sole discretion.
 - iii. Waiver/Modification of Overbid Qualification Requirements. The overbid qualification requirements set forth in sections (b)(i) and (b)(ii) of this Paragraph 5 may only be waived or modified by order of the Bankruptcy Court or by the Trustee in her sole discretion.
 - iv. Minimum Initial Overbid/Bid Increments. The minimum initial overbid during the Overbid Auction shall be no less than ninety seven thousand dollars (\$97,000.00) (the “Initial Overbid”) and, thereafter, each overbid shall be no less than one thousand dollars (\$1,000.00) more than the immediately preceding bid.

¹ all capitalized terms not otherwise defined shall have their meaning ascribed in the Asset Purchase Agreement.

v. **Winning Bid.** If multiple offers are presented during the Overbid Auction, the highest and best offer shall be selected as the winning bid (the “Winning Bid”), provided that a party submitting the Winning Bid (such party, the “Winning Bidder”) has complied with all other requirements to submit an overbid provided in this Paragraph 5, as applicable. If no qualifying overbid is presented at the Overbid Auction, then the Purchase Price shall be deemed the Winning Bid for the purposes of this Agreement.

vi. **Back-up Bidder.** After the Winning Bid is selected, the party submitting the next highest qualifying overbid may elect to have their highest and best bid serve as a back-up bid (a “Back-Up Bid”). Upon such party’s election electing to deem their highest and best bid as a Back-Up Bid (such party, a “Back-Up Bidder”), the Back-up Bidder authorizes the Trustee to retain the Back-up Bidders’ Overbid Deposit subject to the terms of this Paragraph 5. In the event the Winning Bidder or the next highest Back-Up Bidder, as applicable, fails to close the Sale within the time allotted, the next highest Back-up Bidder shall be obligated to purchase the Composition/Royalty Rights for the amount of the Back-up Bid and must close the Sale within five (5) business days after the date on which the Back-up Bidder receives notice that the Winning Bidder or next highest Back-up Bidder, as applicable, failed to close the Sale within the time allotted. If any applicable Back-up Bidder fails to purchase the Composition/Royalty Rights within the time allotted, the Back-up Bidder shall forfeit their rights to their Overbid Deposit and Trustee shall retain such Overbid Deposit as liquidated damages.

vii. **Return of Deposits.** With the exception of the funds submitted by the Winning Bidder and/or Back-up Bidder, all Overbid Deposits shall be returned no later than five (5) business days after the Sale Hearing. If the Winning Bidder or successful Back-Up Bidder, as applicable, successfully closes on the sale of the Composition/Royalty Rights, then within five (5) business days of the closing of such sale, the Trustee shall return to any Back-up Bidder of lower priority their respective Overbid Deposit, as applicable. A Purchase Deposit and/or Overbid Deposit, as applicable, submitted by a Winning Bidder shall become nonrefundable immediately upon the failure of such Winning Bidder to close the sale of the Composition/Royalty Rights.

viii. **Bidding Order.** Bidding during the Overbid Auction shall begin with the highest qualified overbid submitted prior to the Overbid Auction. Thereafter, the order for the submission of bids shall continue until a Winner Bidder and Back-up Bidder(s), as applicable, are selected.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
1900 Avenue of the Stars, Ste. 2100 Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled: **NOTICE OF SALE OF ESTATE PROPERTY** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On *(date)* 10/24/2019, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On *(date)* 10/24/2019, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on *(date)* 10/24/2019, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Via Messenger

The Honorable Victoria S. Kaufman
United States Bankruptcy Court
Central District of California
21041 Burbank Boulevard, Ste. 354
Woodland Hills, CA 91367

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

10/24/2019

Date

Julie King

Printed Name

/s/ Julie King

Signature



1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):

- Keith Patrick Banner kbanner@greenbergglusker.com, sharper@greenbergglusker.com;calendar@greenbergglusker.com
- Larry Castruita larrycastruita@gmail.com
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- William J Smyth office@smythlo.com, williamsmyth@gmail.com
- United States Trustee (SV) ustpregion16.wh.ecf@usdoj.gov
- Pamela Kohlman Webster pwebster@buchalter.com, smartin@buchalter.com
- Diane C Weil (TR) dcweil@dcweillaw.com, DCWTrustee@dcweillaw.com,dweil@ecf.epiqsystems.com,cblair@dcweillaw.com,diane.c.weil@gmail.com;tadmi n@gmail.com;dweil@iq7technology.com

2. SERVED BY UNITED STATES MAIL:

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Attorney for Debtor
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Smyth Law Office
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Los Angeles, CA 90010

Trustee
Diane C. Weil, Chapter 7 Trustee
Weil Law Firm
5950 Canoga Park Avenue, Ste. 400
Woodland Hills, CA 91367

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5th Fl.
Richardson, TX 75082



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Beverly Hills, CA 90210

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North Hollywood, CA 91601

Royalty Sources
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Santa Monica, CA 90404

Royalty Sources
Warner Music Group
Attn: Megan Johnson Legal Analyst
Warner Music Group
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New York, NY 10019

Royalty Sources
The American Society of Composers,
Authors, and Publishers
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250 West 57th Street
New York, NY 10107

Royalty Sources
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